IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

M.C.C. No. 107 /2005

APPELLANT/PETITIONER
NON –APPLICANT NO.2

Kartik S/o Jagdeo Sonkar
Aged about 60 years
R/o Achholi, Tah & Police Station Daundilohara, Durg (C.G.)

VERSUS

RESPONDENTS
CLAIMANTS

1) Bishesar Aged about 42 years Son of Shri Ram Sai,
2) Smt. Kumari /Bai, aged about 38 years wife of Bishesar,
Both are resident of Village Achholi, Tah and P.S. Daundilohara, Distt Durg (C.G.)

P.R. No. 1263/05 Presented by Shri Divi Vredi dated 23/5/05

NON APPLICANT NO.1.

3) Narottam Thakur Aged about 35 years, Son of Shri Kunwar Singh Thakur, Resident of Village Achholi, Tah and P.S. aundilohara, Distt- Durg (C.G.)

NON-APPLICANTNO.3

4) The National Insurance Co. Limited through: Its Divisional Manger, Division Office, Supela bhilai, Ghari Chowk, Distt- Durg (C.G.)

APPLICATION FOR RESTORATION OF THE MISCELLANEOUS APPEAL NO.1158/2004 AFTER RECALLING THE ORDER DATED 19/01/2005.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MCC 1071/05 **सन् 200**

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11-8-2006

Shri Vivek Sharma, counsel for the applicant.

Shri Anand Kumar Gupta, counsel for the National Insurance Company.

Heard.

The instant MCC has been filed by the applicant for restoration of Misc. Appeal No.1158/2004.

Learned counsel for the applicant submits that Misc. Appeal No.1158/2004 was taken up for hearing on 19-1-2005 and it was directed that the defaults be made good within 15 days, failing which the appeal shall stand dismissed automatically without reference to the Bench.

Since the applicant has not complied with the order passed by this Court in Misc. Appeal No.1158/2004, the appeal has been dismissed.

Learned counsel for the applicant submits that due to bona fide mistake the process fee could not be paid in time and he prays for restoring the Misc. Appeal to its original number. The application for restoration of Misc. Appeal is supported by an affidavit of counsel.

Having considered the facts and circumstances of the case, material on record and in view of the decision of Supreme Court rendered in the case of **Rafiq and another vs. Munshilal and another (AIR 1981 SC 1400)** wherein it has been held that the party should not suffer because of mistake or error of the counsel, the MCC is allowed. The Misc. Appeal is restored to its original number i.e. **MISC. APPEAL NO.1158/2004**.

Copy of this order be placed in Misc. Appeal No.1158/2004.

Certified copy as per rules.

Sd/-
Fakhruddin
Judge

30.8.06

P.T.O.